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Linda McCulloch
Superintendent

April 26, 2004

TO: Clerks and Directors of Special Education Cooperatives

FROM: Joan Anderson, Administrator, School Finance
Bob Runkel, Director of Special Education

RE: SB 424 Impacts on Staff Paid using Medicaid Funds

An important question arose recently concerning the new SB 424 restrictions on using county retirement moneys for staff of special education cooperatives. This issue involves any special education cooperative that receives Medicaid money for students they serve and uses it to pay salaries.

The Issue

In the 2003 Legislative Session, SB 424 amended MCA 20-9-501 to state:

“(2) (a) The district or the cooperative shall pay the employer's contributions to the retirement, federal social security, and unemployment insurance systems from the retirement fund for the following:

(i) a district employee whose salary and health-related benefits, if any health-related benefits are provided to the employee, are paid from state or local funding sources;

(ii) *a cooperative employee whose salary and health-related benefits, if any health-related benefits are provided to the employee, are paid from the cooperative's interlocal agreement fund if the fund is supported solely from districts' general funds and state special education allowable cost payments pursuant to [20-9-321](#); and*

(iii) a district employee whose salary and health-related benefits, if any health-related benefits are provided to the employee, are paid from the district's school food services fund provided for in [20-10-204](#).

(b) For an employee whose benefits are not paid from the retirement fund, the district or the cooperative shall pay the employer's contributions to the retirement, federal social security, and unemployment insurance systems from the funding source that pays the employee's salary.”

We were questioned whether (2)(a)(ii) means the cooperative can no longer use the retirement fund to pay benefits for staff paid using Medicaid reimbursements in the Miscellaneous Programs Fund (15). In other words, subsection (2)(a)(ii) only allows use of the retirement fund to pay benefits for employees the cooperative pays using the Cooperative Fund (382). Other

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funds are not mentioned. Does that mean cooperatives cannot use the retirement fund to pay benefits for employees paid using state or local moneys deposited in their Miscellaneous Programs Fund (15)?

Conclusion

OPI's conclusion is that this change was not intended to disallow cooperatives from using the retirement fund for Medicaid-paid employees, consistent with the way school districts treat those funds. Therefore, cooperatives may use the retirement fund for personnel whose salaries are paid with Medicaid reimbursements.

Medicaid is considered to be a state/local revenue source for school districts. The threshold for school district A-133 audit requirements does not include the Medicaid program funds as Federal.

OPI does not believe SB 424 intended to treat Medicaid differently for cooperatives than for school districts. To be consistent with school districts, OPI could amend school accounting policy to allow cooperatives to account for Medicaid in the Cooperative Fund (382). However, creating an accounting fix that causes schools and cooperatives to record Medicaid in different funds would cause unnecessary confusion and would increase the potential for error. Therefore, OPI will instead propose legislation to correct the wording of 20-9-501(2)(a)(ii) in 2005 and maintain consistent treatment of Medicaid funds in cooperatives and school districts.

If you have additional questions, please contact Joan Anderson at (406) 444-1960 or janderson@state.mt.us.

Cc: Cathy Warhank, OPI Legal Counsel
Amy Carlson, Office of the Governor
Jim Oberembt, OPI Fiscal Officer
District Clerks and Superintendents
County Superintendents